BORA LASKIN LAW LIBRARY
3 1761 03342 9085

MATERIALS

FOR

ESTOPPEL, UNCLEAN HANDS etc.

PROFESSORS BRIAN LANGILLE AND ARTHUR RIPSTEIN

VOLUME I

1998/99

University of Toronto

Faculty of Law

NOTE: THESE MATERIALS ARE NOT TO BE CONSIDERED PUBLISHED, AND THIS COMPILATION IS INTENDED SOLELY FOR TEACHING PURPOSES

storage

BORA LASKIN LAW LIBRARY
UNIVERSITY OF TORONTO

MATERIALS

FOR

ESTOPPEL, UNCLEAN HANDS etc.

PROFESSORS BRIAN LANGILLE AND ARTHUR RIPSTEIN

VOLUME I

1998/99

University of Toronto

Faculty of Law

NOTE: THESE MATERIALS ARE NOT TO BE CONSIDERED PUBLISHED, AND THIS COMPILATION IS INTENDED SOLELY FOR TEACHING PURPOSES

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/materialsforesto01lang

ESTOPPEL, UNCLEAN HANDS etc.

TABLE OF CONTENTS

I. INTRODUCTION

Fried C., "The Artificial Reason of the Law or: What Lawyers Know" (1981) 60 Texas Law Review 35 1

P.S. Atiyah, *Rise and Fall of Freedom of Contract* (Oxford: Clarendon, 1979) "Introduction", p. 1 25

Johnston v. *Metropolitan Life Ins. Co.*, 100 S.E. 865 29

Hart v. *E.P. Dutton & Co., Inc.*, 93 N.Y.S.2d 871 33

II. PROFITING FROM YOUR OWN WRONG

Meyers v. *Casey and others*, 17 C.L.R. 90 44

Wooden-Ware Co v. *United States*, 106 U.S. 432, 1 S. Ct. 398 74

Edwards et al. v. *Lee's Adm'r et al* , 96 S.W.2d 1028 77

Cassell & Co. Ltd v. *Broome and another*, [1972] A.C. 1027, [1972] 1 All E.R. 801 ... 86

Penarth Dock Engineering Company Ltd v. *Pounds*, [1963] 1 Q.B. 359 92

Reading v. *A.G.*, [1951] A.C. 507 96

P. Birks, "Restitution for Wrongs" in *The Classification of Obligations* (Oxford: Clarendon; New York : Oxford University, 1997) Chapter 10 pp.313-357 108

III. UNCLEAN HANDS

R.J. Sharpe, "Forms of Injunctive Relief" Paragraphs 103-110 in Injunctions & Specific Performance (Toronto: Can. Law Book, 1983) Chapter 1.7, pp.47-51 131

Precision Instrument Manufacturing Co. et al. v. *Automotive Maintenance Machinery Co.*, 324 U.S. 806, 65 S.Ct. 993 134

Z. Chaffe Jr., "Coming Into Equity With Clean Hands" (May 1949) 47 Mich. L. Rev. 877 142

Moody v. *Cox and Hatt*, 2 ch. [1917] 71 172

IV. IT DOES NOT LIE IN YOUR MOUTH

Anglia T.V. v. *Reed*, [1972] 1 Q.B. 60 (C.A.) 184

Doyle v. *Olby (Ironmongers) Ltd. and others*, [1969] 2 Q.B. 158 [1969] 2 All E.R. 119 187

Hochter v. de *La Tour*, 2 E.L. & B.L., 118 E.R. 922 in Basic Contract's Law (4th ed.), L.L. Fuller & M. A. Eisenberg (eds.) (St.Paul, Minn.: West, 1981) Chapter 25, pp.1037-42 195

Cook v. *Lewis*, 1 D.L.R. 1 (1952) 200

Dow Corning Corp. v. *Hollis et al.*, 129 D.L.R. (4th) 609 210

Navigazione Libera Triestina Societa Anonima v. *Newtown Creek Towing Co.*, 98 F.2d 694 235

Jorden v. *Money* [1854]V H.L.C. 185, 10 E.R. 868 236

V. (a) YOU MADE YOUR BED - NOW LIE IN IT

Binder v. *Alachouzos*, [1972] 2 Q.B. 151, [1972] 2 All E.R. 189 267

Bowlay Logging v. *Domtar*, [1978] 4 W.W.R 105, 87 D.L.R. (3d) 325 affirmed 135 D.L.R. (3d) 179 (1982) 273

Atiyah P.S., "Contracts, Promises and the Law of Obligations" (1978) in *The Law Quarterly Review*, 94, pp. 193-223 280

A.W.B. Simpson, "The Twitching Corpse" in Simpson, Legal Theory and Legal History: Essays on the Common Law (London and Ronceverte: Hambledon, 1987) 311

(b) LACHES

Roth v. *Tayson, Townsend*, (1896) 1 Comm.Cas. 306 (C.A.) in Waddams and Milner (eds.) The Law on Contracts (4th ed.) (Toronto: Emond Montgomery, 1985) pp.82 324

Brooks v. *Muckleston* 2 ch. 519 327

Bernskoetter v. *Kixmiller*, 693 S.W.2d 249 330

Introduction to Adverse Possession in K. Knop and J. Phillips, *Property Law: 1996-97*, 116 337

Re-Read *Hart* v. *Dutton* from the Introduction (part I) 33

Advanced Hydraulics v. *Otis Elevator*, 525 F.2d 477 338

VI. ACQUIESCENCE, ETC.

Lamb v. *Bunce*, 4 M&S 836 344

Loranger v. *Haines*, (1921) 50 O.L.R. 268 (C.A.) 347

Pascoe v. *Turner*, [1979] 2 All E.R. 945 353

Deglman v. *Guaranty Trust*, [1954] 3 D.L.R. 785 (S.C.C.) 360

Craven-Ellis v. *Canons*, 2 K.B. 403 (1936) 367

Ramsden v. *Dyson and Thornton*, 1 Eng. and Irish App. 129 (1865,66) 375

P. Birks, *An Introduction to the Law of Restitution* (Oxford: Clarendon, 1985)
"Free Acceptance", ch. VIII, 265 399

Getzler J., "Patterns of Fusion" in P. Birks, *The Classification of Obligations*,
ch. 7, 157 414

TABLE OF CONTENTS

Volume II

VII. RELIANCE I

S.90 Restatement, The American Law Institute, Restatement of the Law of Contracts, Official Draft (1928) chs.1-7, Ss. 1-177 S.90 Restatement Yale L.J. 1

Yorio E., and Thel S., "The Promissory Basis of Section 90" (1991) 101 No.1 Yale L.J. 111 2

Esso v. *Mardon*, [1976] Q.B. 801 (C.A.) 59

Hedley Byrne v. *Heller & Partners*, [1964] A.C. 465 (H.L.) 77

G. Gilmore, Death of Contract (Columbus: Ohio State, 1974) chs. 3-4, p.55 114

VIII. RELIANCE II

Hughes v. *Metropolitan Railway*, (1877) 2 A.C. 439 139

Crabb v. *Arun District Council*, [1976] ch. 179 (C.A.) 148

McBride N.J., "The Classification of Obligations and Legal Education" in P. Birks, *The Classification of Obligations*, ch. 4, 71 159

McBride N.J., "A fifth common law obligation" J. Legal Studies 35 178

P. Birks, *An Introduction to the Law of Restitution*, "Defences", ch.XII, 402 196

IX. RELIANCE III

Errington v. *Errington*, 1 K.B. 290 (1952) in S.W. Waddams, Cases and Materials on Contracts (Toronto: Edmond Montgomery, 1994) 341 203

Baxter v. *Jones*, 6 O.L.R. 360 (1903) 204

Hackney J., "More than a trace of the old philosophy" in P. Birks, *The Classification of Obligations*, ch. 6, 123 209

Weinrib E.J., "The Juridical Classification of Obligations" in P. Birks, *The Classification of Obligations*, ch. 2, 37 242

Vincent v. *Lake Erie*, 124 N.W. 221 (1910, SC.Minn.) 261

X. CONTRACT FORMATION

Smith v. *Hughes*, (1871) 6 Q.B. 597 263

B. Langille and A. Ripstein, "Strictly Speaking - It Went Without Saying", (1996) 2 Legal Theory 63 271

XI. ESTOPPEL & GOVERNMENT

1. Entrapment

Mack v. *The Queen*, 44 C.C.C. (3d) 513 281

2. Exclusionary Rule

Olmstead v. *United States*, 277 U.S. 438, 48 S. Ct. 564 311

3. Officially Induced Error

Jorgensen v. *The Queen*, [1995] 4 S.C.R. 55, 129 D.L.R. (4th) 510 337

Cox v. *Louisiana*, 379 U.S. 559, 85 S.Ct. 476 361

Robertson v. *Minister of Pensions*, [1949] 1 K.B. 227, [1948] 2 All E.R. 767 379

4. Estoppel Against Government

Evenden v. *Guildford*, [1975] Q.B. 917, [1975] All E.R. 269, [1975] W.L.R. 251 383

Secretary of State for Employment v. *Globe Elastic Thread*, [1979] 3 W.L.R. 143 395

Schweiker v. *Hansen*, 450 U.S. 785, 101 S. Ct. 1468 (1981) 402

XII. THE END

P. Birks, "Definition and Division: A Meditation on *Institutes* 3.13" in P. Birks, *The Classification of Obligations*, ch. 1, p. 1 408

P. Birks, *An Introduction to the Law of Restitution*, Intro. and chs. I-II, 1 443